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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION

- and -

PACIFIC GAS AND ELECTRIC COMPANY,

Debtors.

Case No. 19-30088 (DM) (Lead Case)
Chapter 11
(Jointly Administered)

**STATEMENT IN SUPPORT OF THE
CASE SCHEDULE JOINTLY PROPOSED
BY PERA AND THE RKS CLAIMANTS**

- ☒ Affects Both Debtors
☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company

1 Pursuant to the Court’s September 18, 2024 Memorandum Decision on Thirty-Third and
2 Thirty-Fourth Securities Omnibus Claims Objections, PERA and the RKS Claimants (“Claimants”)
3 present the below joint proposal for a securities claims resolution plan. Claimants’ plan would
4 proceed in two phases, with Phase I resolving substantive issues applicable to *all* remaining securities
5 claims, and Phase II addressing substantive individual claimant issues to the extent necessary
6 following Phase I, as set forth below.
7

8 Claimants’ proposed schedule promotes efficiency throughout. First, Claimants’ schedule is
9 phased. Reorganized Debtors cannot reasonably dispute that there are issues common to all remaining
10 securities claimants, or, at worst, common to significant subsets of claimants. Those issues can and
11 should proceed first.¹ On the other hand, there remain *hundreds* of claims outstanding (and even if
12 grouped in the manner Reorganized Debtors prefer, nearly 100 claimant “groups”). Reorganized
13 Debtors propose that this Court effectively oversee hundreds of separate, ongoing litigations – in the
14 form of an MDL – including inevitable discovery disputes on behalf of subsets of claimants (or even
15 a single claim) – rather than phase the approach. Further, they ignore that in a phased approach all
16 discovery of Reorganized Debtors is *done* in Phase I.
17

18 Second, Claimants’ schedule does not call for summary judgment motions nor introduce the
19 unnecessary delay of such motions. There is no jury in this claim allowance process. This Court acts
20 as the finder of fact and has already been presented with not only hundreds of pages of briefing, but
21 also thousands of pages of additional documents put into the record by Reorganized Debtors on its
22 sufficiency objections. By the end of Phase I, the parties can and should move directly to an
23
24

25 ¹ Reorganized Debtors should welcome this approach, not condemn it, on the basis of
26 efficiency. It has been Reorganized Debtors’ position, as recently as its filing of a motion for leave
27 to appeal this Court’s order on the sufficiency objection on October 24, 2024, that Claimants’
28 claims fail on “virtually identical grounds” to the grounds raised in the objections, and the District
Court motions to dismiss – which include arguments on falsity, scienter, loss causation, and
damages. If Reorganized Debtors succeed in Phase I – a Phase which explicitly does *not* require
dozens of trials – then Phase II never occurs.

1 evidentiary hearing before this Court and the common issues can be decided by this Court on a full
2 record. If this Court desires specific briefing, such as pre-hearing or post-hearing, it can of course
3 order it. Summary judgment is inefficient and unnecessary.

4 Third, Claimants schedule is efficient with the time allotted. The RKS Claimants agreed to a
5 discovery schedule of at least nine months for fact discovery and three months for expert discovery.
6 Claimants' schedule splits that time, appropriately, between Phase I and Phase II, ultimately providing
7 for an evidentiary hearing in Phase I in December 2025 – more than a year for just Phase I. For Phase
8 II, Claimants provide for a hearing in September **2026** – and thus a total discovery timeline of nearly
9 23 months – almost double the “at least” twelve months agreed to. Claimants schedule is far more
10 efficient than Reorganized Debtors' proposed schedule with the time allotted – in particular, by
11 eliminating the unnecessary summary judgment motions. Conversely, Reorganized Debtors'
12 proposal would allow them to delay completing production of documents *they have already*
13 *produced* in closely related matters until June 18, 2025.

14
15
16 Claimants respectfully submit the below schedule for the Court's consideration.

17 **Claimants' Joint Proposed Schedule**

18 **Phase I – Common Issues of Liability**

19 The primary goal of this process must be efficiency. For example, Phase I of Claimants' joint
20 plan would address those issues that can be litigated common to all securities claimants – falsity,
21 scienter, loss causation, fraud on the market/market efficiency/presumption of reliance, and per share
22 damages for the fraud-based claims; and falsity for the negligence-based claims:

- 23 • **Debtor Initial Disclosures & Claimant Service of “Prior Productions” Document**
24 **Request** – November 14, 2024.²
25
26

27 ² Claimants shall serve a “Prior Productions” request for documents limited to documents
28 produced in these proceedings and related matters such as the Camp Fire Grand Jury and *In re Cal.*
N. Bay Fire Derivative Litig., No. CGC-17-562591 (Super. Ct. San Francisco Cty.).

- **All Other Written Discovery to Debtor** – November 21, 2024 (responses in the normal course)
- **Debtor to Produce Prior Productions** – December 4, 2024.
- **Substantial Completion of Document Production** – January 31, 2025
- **Fact Discovery Completion** – May 16, 2025
- **Affirmative Expert Reports**– June 27, 2025
- **Rebuttal Expert Reports** – July 30, 2025
- **Reply Expert Reports** – August 29, 2025
- **Expert Discovery Completion** – October 3, 2025
- **Parties to be Allowed to Move the Above Dates by Written Agreement**
- **Reorganized Debtors may make new omnibus objections, limited to the original omnibus objection grounds, until the close of fact discovery.**
- **Evidentiary Hearing** – Set by the Court by Order for a date in December 2025.

Phase II – Individual Reliance, Individual Damages Issues

Phase II of Claimants' joint plan would address any individual claimant issues, including any individual reliance and individual damages issues. The date of commencement for Phase II will depend on the timing of the Court's issuance of a decision on the issues addressed in Phase I:

- **Initial Conference re: Phase II** – TBD by the Court
- **Written Discovery to Claimants** – Two weeks after initial conference
- **Written Responses to Debtor** – 30 days after receipt of written discovery
- **Substantial Completion of Document Production** – 60 days after service of written responses
- **Completion of Discovery** – 120 days after substantial completion
- **Parties to be Allowed to Move the Above Dates by Written Agreement**

- **Evidentiary Hearings** – No later than September 2026.

Class Certification

- PERA Claimants may elect to file a motion to certify a bankruptcy class.
- **Class Certification Motion:** December 23, 2024
- **Class Certification Opposition Brief:** February 6, 2025
- **Class Certification Reply Brief:** March 22, 2025
- The motion may not delay any discovery in the matter.

Ability to Use Discovery in Other Actions

The RKS Claimants, including Orbis, will commit that witnesses will not be deposed more than once in their respective actions, absent good cause, including with respect to the Orbis District Court Action. Discovery produced in the Bankruptcy Cases can be used in the Orbis District Court Action only if the District Court Defendants file an Answer to the Orbis District Court Action. The RKS Claimants and the parties in their respective proceedings shall enter into an agreement or protective order to memorialize this agreement.

PERA does not agree to the terms of this agreement, and any such agreement reached by the RKS claimants and Debtors or the Defendants in the Orbis District Court Action, or any third parties with which they engage in discovery, in no way limits PERA's ability to conduct discovery in either the bankruptcy proceedings or the District Court Action. PERA respectfully submits that it is for Judge Davila to decide what discovery may be taken or used in the District Court Action. PERA reserves all rights as to this point.

Other Contemplated Motions

This is a claims allowance process and/or a contested matter. Given that the Court is both overseeing this matter and acts as the finder of fact, Claimants see no need for interim motion practice.

Therefore, the schedule above does not contemplate motions, but instead contemplates an evidentiary hearing at the end of Phase I to decide issues (either agreed to by the parties, or as determined by the Judge), such as falsity, scienter, loss causation, fraud on the market/market

1 efficiency/presumption of reliance, and per share damages for the fraud-based claims; and falsity for
2 the negligence based claims.

3 **Mediation**

4 PERA, Reorganized Debtors, and the defendants in the District Court Action are engaged in
5 a mediation. The RKS Claimants see no reason to tie mediation of their claims, if useful, to any other
6 mediation.

7 Dated: October 29, 2024

8 Respectfully submitted,

9
10 *For the PERA Claimants*

11 **LABATON KELLER SUCHAROW LLP**

12 By: /s/ Michael P. Canty
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15 - and -

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17 *Local Bankruptcy Counsel to Securities Lead*
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EXHIBIT A

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